

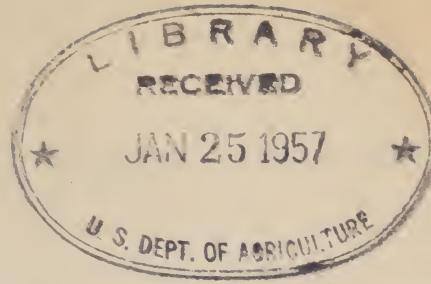
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United States Department of Agriculture

FOOD, DRUG, AND INSECTICIDE ADMINISTRATION

SERVICE AND REGULATORY ANNOUNCEMENTS

Insecticide and Fungicide No. 1

REGULATIONS FOR THE ENFORCEMENT OF THE INSECTICIDE ACT OF 1910

(Third Revision)

INTRODUCTION

The accompanying regulations for the enforcement of the insecticide act of 1910 supersede those previously promulgated and published in Office of the Secretary Circular No. 34. They are substantially identical with those printed in Office of the Secretary Circular 34, except that regulation 14(a) has been made regulation 15, necessitating the renumbering of the rest of the regulations, and the original regulation 28 has been omitted.

W. M. JARDINE,
Secretary of Agriculture.

WASHINGTON, D. C., August 28, 1928.

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REGULATIONS FOR THE ENFORCEMENT OF THE INSECTICIDE ACT OF 1910

GENERAL

Regulation 1.—Original Unbroken Package

(Sections 2 and 10)

The term "original unbroken package," as used in this act, means the original package as defined by the Federal courts with respect to articles of interstate commerce. In general, an original unbroken package is the package delivered by the shipper to the carrier at the initial point of interstate shipment, in the exact condition in which it was shipped, as distinguished from the unit package ordinarily displayed on the shelves of retailers.

Regulation 2.—Collection of Samples

(Section 4)

(a) Samples shall be collected only by authorized agents of the Department of Agriculture, by the directors of agricultural experiment stations, or by agents of any State, Territory, or the District of Columbia, when commissioned by the Secretary of Agriculture for the purpose.

(b) Samples may be purchased in the open market, and the marks, brands, or tags upon the package, carton, container, wrapper, or accompanying printed or written matter shall be noted. The collector shall also note the names of the vendor and the agent of the vendor who made the sale, together with the date of the purchase. The collector shall purchase representative samples.

(c) A sample taken from bulk goods shall be divided into three parts and each shall be labeled with identifying marks.

(d) If a package be less than 4 pounds, or in volume less than 2 quarts, three packages shall be purchased when practicable, and the marks and tags upon each noted. When three samples are purchased, or when a sample is taken from bulk goods as in (c) and divided into three parts, one sample or part, as the case may be, shall be delivered to such chemist or examiner as may be designated by the Secretary of Agriculture for analysis or examination, and the other two samples or parts shall be held under seal by the Secretary of Agriculture, who, upon the request of the party against whom prosecution may lie under this act, on account of the shipment, manufacture, or sale of the product, or the making of a guaranty covering the product, shall deliver one of the samples or parts to such party. Such disposition of the third sample or part shall be made as the Secretary of Agriculture may deem proper.

(e) When it is impracticable to collect three samples or to divide the sample or samples, the order of delivery outlined in (d) shall obtain, and in case there is a second sample, the Secretary of Agriculture may, at his discretion, deliver such sample to the parties interested.

(f) All samples or parts of samples shall be sealed by the collector with a seal provided for that purpose and marked with identifying marks.

Regulation 3.—Methods of Analysis

(Section 4)

The methods of examination or analysis employed shall be those prescribed by the Secretary of Agriculture.

Regulation 4.—Hearings

(Section 4)

(a) If, from the examination or analysis, a sample appears to be adulterated or misbranded within the meaning of this act, notice thereof shall be given to

the party from whom such sample was obtained and to such other interested parties as the Secretary of Agriculture may direct, and a date shall be fixed at which such party or parties may be heard before the Secretary of Agriculture or such other person or persons as he may direct. The hearings shall be had at places designated by the Secretary of Agriculture most convenient for all parties concerned. These hearings shall be private and confined to questions of fact. The parties interested therein may appear in person or by attorney and may submit oral or written evidence to show any fault or error in the findings of the analyst or examiner. At the hearing the party cited shall, upon request, be informed of the findings of the analyst or examiner.

(b) If, after hearing held, it still appears that a violation of the act has been committed, the Secretary of Agriculture shall, through the Attorney General, inform the United States attorney in whose district the offense appears to have been committed.

(c) Any director of an agricultural experiment station or agent of any State, Territory, or the District of Columbia, duly authorized to cooperate in the enforcement of this act, who shall obtain satisfactory evidence of any violation of its provisions, shall report the same to the Secretary of Agriculture in order that he may take such steps as are warranted by this report.

Regulation 5.—Publication

(Section 4)

Publication shall be given of notices of judgment of the courts in cases arising under this act in the form of such circulars, notices, or bulletins as the Secretary of Agriculture may direct. Publication shall be made not less than 30 days after judgment, and, if an appeal be taken from the judgment of the court before such publication, notice of appeal shall accompany the publication.

Regulation 6.—Report of Violations

(Section 5)

Requests for institution of prosecutions under sections 1 and 2 of the act, and, where practicable, for proceedings under section 10 of the act, will be made by the Secretary of Agriculture to the Attorney General. Where immediate action is necessary to secure the seizure of articles under section 10 and delay will result by reporting the facts to the Attorney General, the Secretary of Agriculture will communicate directly with the United States attorneys. In such cases, however, the Secretary of Agriculture will promptly furnish the Attorney General with a copy of the communication to the United States attorney.

Regulation 7.—Report of Violations by State Officials

(Section 5)

The directors of experiment stations or agents of any State, Territory, or the District of Columbia, designated by the Secretary of Agriculture to investigate offenses under the act, shall transmit to the Secretary of Agriculture all evidence collected by them relating to violations of sections 1 and 2 of the act, and also evidence to sustain proceedings for forfeiture and condemnation of articles under section 10 of the act, and such evidence shall be submitted to the solicitor of the Department of Agriculture for examination into its sufficiency to sustain a prosecution.

Regulation 8.—Character of Raw Material

(Section 7)

The Secretary of Agriculture, when he deems it necessary, shall examine the raw material used in the manufacture of insecticides and fungicides in order to determine whether and under what conditions any of them are harmful to animals or are injurious to vegetation upon which they are intended to be used. From time to time the Secretary of Agriculture will publish in the form of circulars or bulletins, as he shall deem adequate, the results of his

investigations of the injurious effects of articles used as insecticides and fungicides.

Regulation 9.—Abstraction of Valuable Constituents

(Section 7)

(a) A valuable constituent of an article is wholly abstracted therefrom, in the contemplation of the act, whenever the designation of the article imports its presence therein and the constituent has been wholly omitted therefrom in the preparation of the article or has been wholly removed from the completed article.

(b) A valuable constituent of an article is partly abstracted therefrom, in the contemplation of the act, whenever the designation of the article imports its presence therein and the constituent is not present in the usual or customary amount.

MISBRANDING AND ADULTERATION

Regulation 10.—Definition of Label

(Section 8)

The term "label," as used in the act, includes any legend and descriptive matter or design printed, stenciled, stamped, seared, or impressed upon the article or its container, and also includes circulars, pamphlets, etc., which are packed and go with the articles into the hands of the purchaser, and such letters, circulars, pamphlets, etc., to which reference is made either on the label attached to the package or on the package itself, or any circulars, pamphlets, etc., which accompany the package.

Regulation 11.—When Labels Are Required

(Section 8)

Whenever, by the terms of the act, information is required to be on the label of an insecticide or fungicide, such as the statement of percentage of arsenic contained therein, a label must be placed on the article in order that the statement can be made, and the omission of a label does not excuse the absence of the required statement.

Regulation 12.—Statements on Labels

(Sections 7 and 8)

All matter required by the act to be stated on the label of an article must be plainly and correctly stated on the face of the principal label in type sufficiently clear and in position sufficiently prominent to attract the immediate attention of the purchaser.

Regulation 13.—Definition of Package

(Section 8)

The term "package," as used in the act, includes every carton, box, barrel, or other receptacle into which an insecticide or fungicide, Paris green, or lead arsenate is placed for use, handling, removal, shipment, or conveyance, and also a single container of such article or articles or several containers packed together.

Regulation 14.—Definition of Insect

(Section 6)

The term "insect," as used in the act and these regulations, is understood to mean any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as beetles, bugs, bees,

flies, etc., and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as spiders, mites, ticks, centipedes, wood lice, etc.

Regulation 15.—Definition of Fungi

(Section 6)

The term "fungi," as used in the act and these regulations, is understood to mean all nonchlorophyll-bearing plants of a lower order than mosses and liverworts (i. e., nonchlorophyll-bearing thallophytes), comprising rusts, smuts, mildews, molds, yeasts, bacteria, etc.

Regulation 16.—False Statements in Circulars, etc.

(Section 8)

An insecticide, fungicide, Paris green, or lead arsenate is misbranded under the provisions of the act if the package containing it is accompanied by any circular, advertising, or descriptive matter, in or upon which there is any false, deceptive, or misleading statement, design, or device, or if such false, deceptive, or misleading statement, design, or device appears on any letter, circular, design, or descriptive matter to which reference is made on the label attached to the package or in any paper accompanying the package.

Regulation 17.—Ingredients Required to be Declared

(Section 8)

(a) Insecticides (other than Paris greens and lead arsenates) and fungicides containing arsenic in any of its combinations or in the elemental form must bear a statement on the label showing the total amount of arsenic present (expressed as per cent of metallic arsenic) and also the amount present in water-soluble form (expressed as per centum of metallic arsenic).

(b) Insecticides (other than Paris greens and lead arsenates) and fungicides containing inert substances, which do not prevent, destroy, repel, or mitigate insects or fungi, must bear a statement on the label of the name and percentage of each inert substance therein, unless the name and percentage of each active ingredient of the article is plainly and correctly stated, in which case it will be sufficient to state upon the label that the article contains inert substances, giving the correct percentage thereof.

Regulation 18.—False and Misleading Statements on Labels

(Section 8)

The use of any false or misleading statement, design, or device appearing on any part of the label shall not be justified by any statement given as the opinion of an expert or other person, nor by any descriptive matter explaining the use of the false or misleading statement, design, or device.

Regulation 19.—Name and Address of Manufacturer

(Section 8)

(a) The name of the manufacturer or producer or the place of manufacture need not be given upon the label, but if given must be the true name and true place. The words "Packed for * * *," "Distributed by * * *," or some equivalent phrase, shall be added to the label in case the name which appears upon the label is not that of the actual manufacturer or producer.

(b) When a person, firm, or corporation actually manufactures or produces an insecticide, fungicide, Paris green, or lead arsenate in two or more places the actual place of manufacture or production of each particular package need not be stated on the label except when, under the peculiar circumstances of the particular case, the mention of any such place to the exclusion of the others misleads the public.

(c) The use of a geographical name shall not be permitted in connection with an insecticide or fungicide not manufactured or produced in that place,

when such name indicates that the article was manufactured or produced in that place.

(d) The use of a geographical name in connection with an insecticide or fungicide will not be deemed a misbranding when, by reason of long usage, it has come to represent a generic term and is used to indicate a style, type, or brand, or where it has come to represent a specific substance rather than the place of manufacture, but in all such cases the place where any such article is manufactured or produced shall be stated upon the principal label.

(e) A foreign name which is recognized as distinctive of a product of a foreign country shall not be used upon an article of domestic origin except as an indication of the type or style or quality of manufacture, and then only when so qualified that it is not offered for sale under the name of a foreign article.

Regulation 20.—Substitution

(Sections 7 and 8)

When a substance of a recognized quality commonly used in the preparation of an insecticide or fungicide is replaced in part or in whole by another substance, the name of the substituted substance shall appear upon the label.

FORM OF GUARANTY

Regulation 21.—Guaranty

(Section 9)

(a) It having been determined that the legend "Guaranteed by (name of guarantor) under the insecticide act of 1910," borne on the labels or packages of insecticides, Paris greens, lead arsenates, and fungicides, accompanied by serial numbers given by the Secretary of Agriculture, is misleading and deceptive, in that the public is induced by such legend and serial number to believe that the articles to which they relate have been examined and approved by the Government and that the Government guarantees that they comply with the law, the use of said legend, or any similar legend, on labels or packages should be discontinued. Inasmuch as the acceptance by the Secretary of Agriculture for filing of the guaranties of manufacturers and dealers and the giving by him of serial numbers thereto contribute to the deceptive character of legends on labels and packages, no guaranty in any form shall hereafter be filed with and no serial number shall hereafter be given to any guaranty by the Secretary of Agriculture. All guaranties now on file with the Secretary of Agriculture shall be stricken from the files, and the serial numbers assigned to such guaranties shall be canceled.

(b) The use on the label or package of any insecticide, Paris green, lead arsenate, or fungicide of any serial number required to be canceled by paragraph (a) of this regulation is prohibited.

(c) Any wholesaler, manufacturer, jobber, or other party residing in the United States may furnish to any dealer to whom he sells any insecticide, Paris green, lead arsenate, or fungicide, a guaranty that such article is not adulterated or misbranded within the meaning of the insecticide act of 1910.

(d) Each guaranty to afford protection shall be signed by, and shall contain the name and address of, the wholesaler, manufacturer, jobber, dealer, or other party residing in the United States making the sale of the article or articles covered by it to the dealer, and shall be to the effect that such article or articles are not adulterated or misbranded within the meaning the insecticide act of 1910.

(e) Each guaranty in respect to any article or articles should be incorporated in or attached to the bill of sale, invoice, bill of lading, or other schedule, giving the names and quantities of the article or articles sold, and should not appear on the labels or packages.

(f) No dealer in insecticides, Paris greens, lead arsenates, or fungicides will be liable to prosecution if he can establish that the articles were sold under a guaranty given in compliance with this regulation.

[Section 10. The provisions of these regulations relating to the collection of samples and hearings before the Secretary of Agriculture or his representative have no application to proceedings instituted under section 10 of the statute.]

IMPORTATIONS**Regulation 22.—Imports**

(Section 11)

All Paris green and lead arsenate imported into the United States will be considered to be intended for use as insecticides and treated accordingly, unless the contrary is shown.

Regulation 23.—Imports—Declaration

(Section 11)

All invoices of insecticides, Paris greens, lead arsenates, and fungicides imported into the United States shall be accompanied by a declaration of the shipper, made before a United States consular officer, as follows:

I, _____, the undersigned, do hereby declare that I am _____
(Name in full)
the _____ of the merchandise herein mentioned, which con-
sists of insecticides, Paris greens, lead arsenates, or fungicides. None of this merchandise
is falsely labeled in any respect, or dangerous to the health of the people of the United
States, or forbidden entry into, or sale in, or restricted in sale in, the country in which
it is made or from which it is exported. The merchandise was manufactured
in _____, by _____, and is exported
(Country) (Name of manufacturer)
from _____ consigned to _____
(City) (City)
_____ (Signature)

Done at _____ this _____ day of _____, 19____.

Regulation 24.—Imports—Release on Bond

(Section 11)

Consignments of insecticides, Paris greens, lead arsenates, or fungicides sought to be imported into the United States may be delivered to the consignee before examination to determine whether they are adulterated or misbranded, upon the execution and delivery by the consignee of a penal bond in a sum equivalent to the invoice value of the consignment, including the duty, conditioned upon the prompt return of the consignment to customs custody, upon demand by the Secretary of the Treasury or his representative.

Regulation 25.—Imports—Hearing

(Section 11)

If, upon examination or analysis of a sample from a consignment of insecticides, Paris greens, lead arsenates, or fungicides, adulteration or misbranding appears, the owner or consignee shall be promptly notified of the nature of the charge and the time and place at which consideration as to the disposition of the consignment will take place, in order that he may appear and introduce evidence.

Regulation 26.—Imports—Detention

(Section 11)

A reasonable time will be allowed the owner or consignee to secure evidence for consideration in connection with charges of misbranding or adulteration. If, after examination or analysis of a sample from a consignment of insecticides, Paris greens, lead arsenates, or fungicides, such sample has been found not to comply with the provisions of the act and, after a hearing granted to the owner or consignee of the goods shall have been held, all the evidence in the case, including the sample, shall be transmitted to such official stationed in Washington as the Secretary of Agriculture may designate for examination or analysis. If it then appears that the consignment may not lawfully be imported into the United States in consideration of the results of the analysis or examination of

the said sample, the Secretary of Agriculture shall report to the Secretary of the Treasury that the particular importation is adulterated or misbranded, as the case may be, under the provisions of the insecticide act of 1910.

REVIEW, AMENDMENT, AND ENFORCEMENT OF REGULATIONS

Regulation 27.—Review

(Section 11)

Application for review of decisions regarding the adulteration or misbranding of insecticides, Paris greens, lead arsenates, or fungicides shall be addressed to the Secretary of Agriculture, and all vouchers for reimbursement for samples should be addressed to such officer of the Department of Agriculture as the Secretary of Agriculture may direct.

Regulation 28.—Amendment of Regulations

These regulations may be amended at any time without notice, with the concurrence of the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce.

SEYMOUR LOWMAN,
Acting Secretary of the Treasury.
 W. M. JARDINE,
Secretary of Agriculture.
 E. F. MORGAN,
Acting Secretary of Commerce.

WASHINGTON, D. C., July 17, 1928.

THE INSECTICIDE ACT OF 1910

An Act For preventing the manufacture, sale, or transportation of adulterated or misbranded Paris greens, lead arsenates, and other insecticides, and also fungicides, and for regulating traffic therein, and for other purposes. (36 Stat., 331.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be unlawful for any person to manufacture within any Territory or the District of Columbia any insecticide, Paris green, lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act; and any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction thereof, be fined not to exceed two hundred dollars for the first offense, and upon conviction for each subsequent offense be fined not to exceed three hundred dollars, or sentenced to imprisonment for not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

Sec. 2. That the introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or from any foreign country, or shipment to any foreign country, of any insecticide, or Paris green, or lead arsenate, or fungicide which is adulterated or misbranded within the meaning of this act is hereby prohibited; and any person who shall ship or deliver for shipment from any State or Territory or the District of Columbia to any other State or Territory or the District of Columbia, or to any foreign country, or who shall receive in any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia, or foreign country, and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or offer to deliver, to any other person, any such article so adulterated or misbranded within the meaning of this act, or any person who shall sell or offer for sale in the District of Columbia or any Territory of the United States any such adulterated or misbranded insecticide, or Paris green, or lead arsenate, or fungicide, or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor, and for such offense be fined not exceeding two hundred dollars for the first offense, and upon conviction for each subsequent offense not exceeding three hundred dollars, or be imprisoned not exceeding one year, or both, in the discretion of the court: *Provided*, That no article shall be deemed misbranded or adulterated within the provisions of this act when intended for export to any foreign country and prepared or packed

according to the specifications or directions of the foreign purchaser; but if said article shall be in fact sold or offered for sale for domestic use or consumption, then this proviso shall not exempt said article from the operation of any of the other provisions of this act.

SEC. 3. That the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce and Labor shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of insecticides, Paris greens, lead arsenates, and fungicides manufactured or offered for sale in the District of Columbia or in any Territory of the United States, or which shall be offered for sale in unbroken packages in any State other than that in which they shall have been respectively manufactured or produced, or which shall be received from any foreign country or intended for shipment to any foreign country, or which may be submitted for examination by the director of the experiment station of any State, Territory, or the District of Columbia (acting under the direction of the Secretary of Agriculture), or at any domestic or foreign port through which such product is offered for interstate commerce, or for export or import between the United States and any foreign port or country.

SEC. 4. That the examination of specimens of insecticides, Paris greens, lead arsenates, and fungicides shall be made in the Department of Agriculture, by such existing bureau or bureaus as may be directed by the Secretary, for the purpose of determining from such examination whether such articles are adulterated or misbranded within the meaning of this act; and if it shall appear from any such examination that any of such specimens are adulterated or misbranded within the meaning of this act, the Secretary of Agriculture shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this act have been violated by such party, then the Secretary of Agriculture shall at once certify the facts to the proper United States district attorney, with a copy of the results of the analysis or the examination of such article duly authenticated by the analyst or officer making such examination, under the oath of such officer. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid.

SEC. 5. That it shall be the duty of each district attorney to whom the Secretary of Agriculture shall report any violation of this act, or to whom any director of experiment station or agent of any State, Territory, or the District of Columbia, under authority of the Secretary of Agriculture, shall present satisfactory evidences of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States, without delay, for the enforcement of the penalties as in such case herein provided.

SEC. 6. That the term "insecticide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term "Paris green" as used in this act shall include the product sold in commerce as Paris green and chemically known as the aceto-arsenite of copper. The term "lead arsenate" as used in this act shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_3AsO_4) by replacing one or more hydrogen atoms by lead. That the term "fungicide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever.

SEC. 7. That for the purpose of this act an article shall be deemed to be adulterated—

In the case of Paris green: First, if it does not contain at least fifty per centum of arsenious oxide; second, if it contains arsenic in water-soluble forms equivalent to more than three and one-half per centum of arsenious oxide; third, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

In the case of lead arsenate: First, if it contains more than fifty per centum of water; second, if it contains total arsenic equivalent to less than twelve and one-half per centum of arsenic oxide (As_2O_5); third, if it contains arsenic in water-soluble forms equivalent to more than seventy-five one-

hundredths per centum of arsenic oxide (As_2O_5) ; fourth, if any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength: *Provided, however,* That extra water may be added to lead arsenate (as described in this paragraph) if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

In the case of insecticides or fungicides, other than Paris green and lead arsenate: First, if its strength or purity fall below the professed standard or quality under which it is sold; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if it is intended for use on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling, or mitigating insects, shall be injurious to such vegetation when used.

SEC. 8. That the term "misbranded" as used herein shall apply to all insecticides, Paris greens, lead arsenates, or fungicides, or articles which enter into the composition of insecticides or fungicides, the package or label of which shall bear any statement, design, or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to all insecticides, Paris greens, lead arsenates, or fungicides which are falsely branded as to the State, Territory, or country in which they are manufactured or produced.

That for the purpose of this act an article shall be deemed to be misbranded—

In the case of insecticides, Paris greens, lead arsenates, and fungicides: First, if it be an imitation or offered for sale under the name of another article; second, if it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package; third, if in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

In the case of insecticides (other than Paris greens and lead arsenates) and fungicides: First, if it contains arsenic in any of its combinations or in the elemental form and the total amount of arsenic present (expressed as per centum of metallic arsenic) is not stated on the label; second, if it contains arsenic in any of its combinations or in the elemental form and the amount of arsenic in water-soluble forms (expressed as per centum of metallic arsenic) is not stated on the label; third, if it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel, or mitigate insects or fungi and does not have the names and percentage amounts of each and every one of such inert ingredients plainly and correctly stated on the label: *Provided, however,* That in lieu of naming and stating the percentage amount of each and every inert ingredient the producer may at his discretion state plainly upon the label the correct names and percentage amounts of each and every ingredient of the insecticide or fungicide having insecticidal or fungicidal properties, and make no mention of the inert ingredients, except in so far as to state the total percentage of inert ingredients present.

SEC. 9. That no dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach in due course to the dealer under the provisions of this act.

SEC. 10. That any insecticide, Paris green, lead arsenate, or fungicide that is adulterated or misbranded within the meaning of this act and is being transported from one State, Territory, or District, to another for sale, or, having been transported, remains unloaded, unsold, or in original unbroken packages, or if it be sold or offered for sale in the District of Columbia or any Territory of the United States, or if it be imported from a foreign country for sale, shall be liable to be proceeded against in any district court of the United States within the district wherein the same is found and seized for confiscation by a process of libel for condemnation.

And if such article is condemned as being adulterated or misbranded, within the meaning of this act, the same shall be disposed of by destruction or sale as the said court may direct, and the proceeds thereof, if sold, less the legal costs

and charges, shall be paid into the Treasury of the United States, but such goods shall not be sold in any jurisdiction contrary to the provisions of this act or the laws of that jurisdiction: *Provided, however,* That upon the payment of the costs of such libel proceedings and the execution and delivery of a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to the provisions of this act or the laws of any State, Territory, or District, the court may by order direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States.

SEC. 11. That the Secretary of the Treasury shall deliver to the Secretary of Agriculture, upon his request, from time to time, samples of insecticides, Paris greens, lead arsenates, and fungicides which are being imported into the United States or offered for import, giving notice thereof to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony; and if it appear from the examination of such samples that any insecticide, or Paris green, or lead arsenate, or fungicide offered to be imported into the United States is adulterated or misbranded within the meaning of this act, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, or is otherwise falsely labeled in any respect, the said article shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided,* That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bonds: *And provided further,* That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

SEC. 12. That the term "Territory," as used in this act, shall include the District of Alaska and the insular possessions of the United States. The word "person," as used in this act, shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association, as well as that of the other person.

SEC. 13. That this act shall be known and referred to as "The Insecticide Act of 1910."

SEC. 14. That this act shall be in force and effect from and after the first day of January, nineteen hundred and eleven.

Approved, April 26, 1910.